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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Amendment of the Commission's
Rules and Policies To Increase
Subscribership and Usage of the
Public Switched Network

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CC Docket No. 95-115

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REPLY COMMENTS OF
THE PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

The Personal Communications Industry Association ("PCIA"),¹ by its attorneys,
respectfully submits its reply comments regarding the Commission's Notice of
Proposed Rulemaking in the above-captioned proceeding.² The *Notice* requested
comment on a number of ways in which subscribership and usage of the public
switched network could be increased. In addition, the Commission sought comment on

¹ PCIA is an international trade association representing the interests of both the commercial and the private mobile radio service communications industries. PCIA's Federation of Councils includes: the Paging and Narrowband PCS Alliance, the Broadband PCS Alliance, the Specialized Mobile Radio Alliance, the Site Owners and Managers Association, the Association of Wireless System Integrators, the Association of Communications Technicians, and the Private System Users Alliance. In addition, as the FCC-appointed frequency coordinator for the 450-512 MHz bands in the Business Radio Service, the 800 and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of licensees.

² FCC 95-281 (July 20, 1995) ("*Notice*"). By *Order* in this docket, DA 95-2157 (Oct. 20, 1995), the date for filing reply comments was extended until November 14, 1995. Because the Commission was closed on that date, this reply is being submitted on the first day the Commission is open following the budgetary shutdown. See FCC Public Notice, "FCC Announces Shutdown Procedures" (Nov. 13, 1995).

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specific barriers to achieving 100 percent subscribership,³ how better to measure subscribership,⁴ and how to make consumers more aware of the existence of programs that are designed to increase subscribership.⁵

The opening comments in this proceeding included a number of observations and arguments with implications for the wireless operators represented by PCIA. As described in more detail below, the record in this proceeding reflects that promoting competition and the deployment of new technologies in an even-handed regulatory environment are effective means of increasing subscribership. Further, if spectrum is allocated for wireless local loops, the spectrum licensing process should be open to all qualified applicants. Finally, because there is neither a factual basis nor a public interest justification for the proposal of InterDigital Communication Corporation to shift 450 MHz two-way spectrum away from paging providers in favor of Basic Exchange Telecommunications Radio Service ("BETRS") providers, this proposal should be rejected.

³ *Notice*, ¶¶ 42-44.

⁴ *Id.*, ¶ 45.

⁵ *Id.*, ¶¶ 46-52.

I. SUBSCRIBERSHIP IN BOTH URBAN AND RURAL AREAS SHOULD INCREASE AS THE RESULT OF COMPETITION AND THE DEPLOYMENT OF NEW TECHNOLOGIES GOVERNED BY EVEN-HANDED REGULATION

In response to the Commission's quest for methods of increasing subscribership,⁶ several parties pointed out that the best method of increasing current subscribership levels is to promote effective competition in the telecommunications marketplace.⁷ It is PCIA's view that competition will drive down prices and drive up the variety of telecommunications services offered.⁸ This increased variety and lower price of services in turn will attract a greater number of subscribers to the public switched network. PCIA agrees with MCI that "[c]ompetition will lead to discovering cost-effective, affordable new services that attract people to the network."⁹ Similarly, Teleport Communications Group accurately observed that "[c]ompetition will contribute to the advancement of universal service in every community and in every state."¹⁰

Thus, one of the most effective tools available to the Commission to increase subscribership is the continued promotion of broad-based competition among

⁶ Notice, ¶¶ 40-41.

⁷ E.g., General Services Administration ("GSA") Comments at 5; MCI Comments at 5; Teleport Communications Group Comments at 1.

⁸ See, e.g., Comments of PCIA, CC Docket No. 80-286 (filed Oct. 10, 1995) Comments of PCIA, CC Docket No. 95-54 (filed June 14, 1995).

⁹ MCI Comments at 5.

¹⁰ Teleport Communication Group Comments at 1.

communications services. A pro-competitive, technology-neutral subscribership policy will provide both urban and rural customers with a greater choice of services at affordable prices.

The opening comments in this proceeding make clear that, especially in rural areas, wireless services have an important role to play in increasing affordable access to the public switched telephone network. A number of parties suggested that a wide variety of wireless technologies might be appropriate for providing service to areas where low population density and/or rough terrain are present.¹¹ These possibilities underscore the need for the Commission to ensure that its regulatory policies do not disadvantage these important wireless technologies. Carrier decisions about the appropriate technology to use should be driven by factors such as cost and performance rather than regulatory directives and restrictions. As stated by Southwestern Bell Telephone Company, decisions regarding which technology should be used to serve rural areas "are business decisions that should remain within the sole purview of the provisioning company."¹²

Both the United States Telephone Association ("USTA") and U S West urged the Commission to allocate spectrum for wireless local loops in rural areas.¹³ U S

¹¹ *E.g.*, Alaska Telephone Ass'n Comments at ¶ 6; AMSC Corp. Comments at 5; Colorado Public Utilities Commission Comments at 13-14; Teleport Communications Group Comments at 7; United Utilities, Inc. Comments at ¶ 4.

¹² Southwestern Bell Telephone Co. Comments at 21.

¹³ United States Telephone Ass'n Comments at 15; U S West Communications, Inc. Comments at 15.

West's proposal contemplates that spectrum for such rural wireless local loops would be awarded on a non-competitively bid basis.¹⁴ If the Commission does choose to allocate such spectrum, PCIA requests that the licensing process for such use be open to all parties that are willing and able to provide the desired rural service. Such an open process will serve the public interest by maximizing the possible number of rural service providers.

II. THERE IS NO REASON TO TAKE SPECTRUM AWAY FROM 450 MHZ PAGING PROVIDERS

PCIA opposes the suggestion of InterDigital Communications Corporation ("InterDigital") to restrict the use of 450 MHz channels by rural paging providers and reserve these channels for use by BETRS providers.¹⁵ InterDigital asserts not only that additional spectrum is needed for BETRS but that the currently allocated 450 MHz frequencies are decreasingly available.¹⁶ According to InterDigital, "lack of spectrum for BETRS . . . curtails future installations [and] seriously affects existing systems."¹⁷ InterDigital claims that "[t]he licensing of paging systems, in rural areas, on the primary BETRS frequencies is a major factor in the current shortage of BETRS

¹⁴ U S West at 15.

¹⁵ InterDigital Communications Corp. Comments at 3-6.

¹⁶ *Id.* at 4, 5.

¹⁷ *Id.* at 4.

spectrum,"¹⁸ and suggests that this circumstance is particularly egregious in light of "the large number of radio channels available to the paging industry."¹⁹

InterDigital in effect is seeking reconsideration of the Commission's decision in *Flexible Allocation of Frequencies in the Domestic Public Land Mobile Service*.²⁰ The Commission has already considered and rejected arguments in its *Flexible Allocation Order* that were similar to those now made by InterDigital. In particular, the *Flexible Allocation Order* specifically addressed the argument of BellSouth that "the Commission should give priority to use by BETRS subscribers of the 450 MHz band."²¹ After balancing these concerns with the needs of licensees of the 450 MHz two-way channels, the Commission decided that "it is preferable to permit the marketplace to determine which common carrier services will be offered on the conventional two-way mobile frequencies" and allowed one-way paging providers unfettered access to 450 MHz channels.²²

Moreover, other than its conclusory statement that there are "a large number of radio channels available to the paging industry," InterDigital offers no evidence in

¹⁸ *Id.* at 5.

¹⁹ *Id.*

²⁰ 4 FCC Rcd 1576 (1989) (*Flexible Allocation Order*). That order allowed the use of paired, 450 MHz two-way channels for one-way paging.

²¹ *Id.* at 1578-79. *See also id.* at 1579 (NYNEX arguing that the "usefulness of BETRS should not be destroyed by unpairing the channels;" Pacific Bell and Nevada Bell arguing that "depairing could result in substantial interference" to BETRS).

²² *Id.* at 1580.

support of its alleged spectrum glut. To the contrary, like other vibrant and expanding wireless services, paging has no spectrum to spare.

The relief²³ requested by InterDigital simply cannot be granted in this proceedings.²⁴ InterDigital has provided virtually no documentation of the alleged diversion of 450 MHz two-way frequencies from BETRS or the wide availability of paging/messaging spectrum, other than its own self-serving statements. Moreover, its comments presume that BETRS operation on 450 MHz channels provides greater public benefit than paging and other messaging services, again without any support or analysis. While it may be appropriate to allocate additional spectrum for BETRS, that allocation should not be at the expense of paging operators who also are providing

²³ InterDigital claims that "heightened scrutiny on licensing additional paging systems in rural areas (especially where other paging channels are available) would appear to be a prudent public policy which would improve a deteriorating spectrum situation." InterDigital Comments at 6. The Commission, however, provided companies seeking to provide BETRS with an opportunity to demonstrate that "this service is the most efficient and cost effective way in which basic telephone service can be received by individuals and businesses who want to subscribe," and thus request a comparative hearing with an application contemplating any other use of the frequencies. *Flexible Allocation Order*, 4 FCC Rcd at 1581. InterDigital fails to note this available mechanism by which BETRS entities may "heighten the scrutiny" of proposals based on paging use of the frequencies.

²⁴ InterDigital's filing in effect proposes reconsideration of policies adopted by the Commission over six years ago. Clearly, reconsideration at this time and in this form is not procedurally proper. At most, to obtain its desired outcome, InterDigital should file a petition for rulemaking, which would provide the Commission with a more complete record on this issue by allowing all interested parties an opportunity to submit comments.

important public services. Accordingly, the Commission must reject InterDigital's proposal.

III. CONCLUSION

The Commission should craft its policies to encourage competition and new technologies as means of increasing subscribership through the availability of a greater variety of lower-priced telecommunications services. In addition, should the Commission decide to allocate spectrum for use as a wireless local loop, the spectrum allocation process should be open on a non-discriminatory basis to all qualified applicants. Finally, there is no reason for the Commission to reallocate spectrum from 450 MHz paging providers for use by BETRS providers.

Respectfully submitted,

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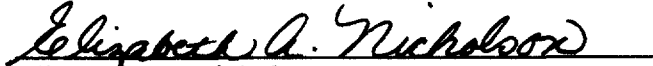
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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November, 1995, I caused copies of the foregoing "Reply Comments of The Personal Communications Industry Association" to be hand delivered to the following:

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